IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

Criminal Appeal No. 554-DBA of 1999

Date of Decision :- September 27, 2006.

State of Punjab ....APPELLANT

VERSUS

Jang Singh and others ....RESPONDENTS

Criminal Revision No. 609 of 1999

Surjit Singh ....PETITIONER

VERSUS

Jang Singh and others ....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE MEHTAB S.GILL
HON'BLE MR. JUSTICE BALDEV SINGH

Present:- Mr. S.S.Randhawa, Senior D.A.G. Punjab.

Mr. T.S.Sangha, Advocate for the respondents.

Mr. S.S.Toor, Advocate for the complainant.

MEHTAB S.GILL, J.

We will be taking up Criminal Appeal No. 554-DBA of 1999 and Criminal Revision No. 609 of 1999 together, as both arise out of the same judgment/order. Criminal Appeal No. 554-DBA of 1999 and Criminal Revision No.609 of 1999 have been filed by the State and the complainant respectively against the order of acquittal of the

respondents dated 24.12.1998 passed by the learned Sessions Judge, Sangrur.

The case of the prosecution is that deceased Satwant Singh had two sons namely Gurwinder Singh aged about 13-14 years, who was studying in Sangrur and younger to him was Badal Singh aged about 10-11 years, who was studying in Barrarwal. He had one daughter Hardeep Kaur alias Sandy. He had built a house in his fields in Village Barrarwal and was residing there with his family members. Surjit Singh PW5, the father of the deceased who is also the complainant, had 50 bighas in Village Barrarwal and transferred this land about 10 years before the occurrence, in favour of deceased Satwant Singh. Satwant Singh had spent 10 lacs to construct the house and a tubewell. He had fitted underground pipes on the land. It is alleged that he was having a dispute with his wife accused Jagdish Kaur and accused Hardeep Kaur alias Sandy because he was selling the land unnecessarily and used to waste the sale proceeds. On 7.10.1997 accused Jang Singh, Harkewal Singh and Gurjinder Singh came to the house of Satwant Singh at about 4.00 p.m. They called the complainant Surjit Singh PW5 and Sadhu Singh to the house of Satwant Singh. There they tried to prevail upon Satwant Singh not to sell his land. It had become late in the night. Sadhu Singh and Surjit Singh PW5 slept in the courtyard of the house of deceased Satwant Singh, while Badal Singh slept on the roof. On 8.10.1997 at about 5.00 a.m. Surjit Singh and others heard noise coming from inside the room where Satwant Singh was sleeping. It was the voice of accused-

Jagdish Kaur asking her brother Jang Singh to get up, who was also sleeping there, so that they could teach Satwant Singh a lesson. Accused Jang Singh summoned Harkewal Singh and both of them called Gurjinder Singh alias Guddu. Jagdish Kaur exhorted the male members to murder Satwant Singh. There was an electric bulb on. Satwant Singh tried to get up from his bed and run away, but accused Harkewal Singh, who was armed with a Takwa, opened the attack and gave a blow on the forehead of Satwant Singh. Jang Singh was armed with a Kulhari, he gave a Kulhari blow on the head of Satwant Singh. Gurjinder Singh alias Guddu was armed with a Kirpan. He gave two Kirpan blows to Satwant Singh one on the left side of the head and the other also on the head. All the four accused then ran away with their respective weapons. FIR Ex.PG was recorded at 9.30 a.m. on 8.10.1997 by Sub Inspector Gurmukh Singh PW11, Additional SHO Police Station, Dhuri. The special report reached the Ilaqa Magistrate, Dhuri at 11.47 a.m. on the same day.

The prosecution to prove its case brought into witness box Dr. Badri Dass as PW1, Lakha Singh Patwari as PW2, HC Bikar Singh as PW3, Constable Harinder Kumar as PW4, Surjit Singh as PW5, Sadhu Singh as PW6, Constable Parveen Kumar as PW7, Rup Singh as PW8, Constable Bhagwan Singh as PW9, Constable Bahadur Singh as PW10, SI Gurmukh Singh as PW11, Inspector Shamsher Singh CIA Staff as PW12 and ASI Mukhtiar Singh as PW13.

The defence to prove its case brought into witness box Badal Singh as DW1.

Learned counsel for the appellant-State has argued that the FIR is prompt. The occurrence had taken place in the house of the deceased on 8.10.1997 at 5.00 a.m. The prosecution witnesses are natural. Surjit Singh PW5 lodged the report Ex.PG. FIR was recorded at 9.30 a.m. on 8.10.1997 by SI Gurmukh Singh PW11. The special report reached the Ilaqa Magistrate, Dhuri at 11.47 a.m. on the same day. Accused have been named in the FIR. The weapons of offence and the nature of injuries have also been given. The medical evidence corroborates the ocular account. The motive for the commission of the offence has been proved by the witnesses as deceased Satwant Singh was a spent thrift and accused Jagdish Kaur and Hardeep Kmaur @ Sandy had apprehension that he would finish all the property or give it to someone else. After gathering their relatives Jang Singh being the brother of Jagdish Kaur, Harkewal Singh being the nephew of Jagdish Kaur and Gurjinder Singh being the son of Jagdish Kaur's sister and committed the murder of Satwant Singh.

Learned counsel for the accused has argued that the FIR is belated and consultations and confabulations had taken place before lodging of the FIR. There was no need for accused Jagdish Kaur and Hardeep Kaur to hire accused Jang Singh and others to commit the murder of Satwant Singh as they themselves could have done so easily, as they were living in the same house. The medical evidence does not corroborate the ocular account. Injuries given on the person of the deceased were sharp edged injuries where as per the post mortem

report, injuries No. 1, 2 and 4 are lacerated wounds. The only injury which is sharp edged is injury No.3. Both the eye witnesses Surjit Singh PW5 and Sadhu Singh PW6 have made improvements in their statements. The defence version as brought before the Court by accused- Jagdish Kaur, is supported by Badal Singh DW1, which seems more truthful and convincing. Badal Singh DW1 is a natural witness, as he stayed in the house with his father and the occurrence had taken place in the night. His presence has been admitted by Surjit Singh PW5 and Sadhu Singh PW6.

We have heard the learned counsel for the parties and perused the record and the impugned judgment with their assistance.

Rup Singh PW8 has stated in his testimony before the Court, that on 7.10.1997 he went to the house of deceased Satwant Singh to hire his Maruti car, which was plied as a Taxi, at about 10.00 or 10.30 a.m. He stated that he is a resident of Village Bir Kalan. He has further stated that he heard Hardeep Kaur alias Sandy telling her maternal uncle accused Jang Singh that her father is wasting the land. After this, Rup Singh went away. In his statement before the Investigating Officer on 8.10.1997, nothing of this has been said so. Rup Singh had no reason to be present in the house of the deceased in the evening, as he could have easily hired a taxi from Dhuri, which was nearer.

The motive as spelt out by the prosecution is that deceased Satwant Singh was a spent thrift. Accused Jagdish Kaur and Hardeep Kaur were apprehending that he would sell the land leaving them with

nothing. This argument of the learned counsel for the appellant does not cut much ice. It has come in evidence of Surjit Singh PW5 that deceased Satwant Singh had spent 10 lacs on his house and installed a tubewell with underground pipes at the cost of Rs. 5 lacs. He had spent Rs.5-6 lacs on the marriage of his daughter Hardeep Kaur. He gave a car to her in dowry. He used to give his land on Theka. This witness has admitted that deceased Satwant Singh purchased 14 bighas of land in Village Pangarian. He had also entered into an agreement to purchase 15 bighas of land from Sukhdev Singh. This clearly shows that the deceased was not a spent thrift.

The learned trial Court has rightly held that there is a delay in lodging of the FIR. Occurrence had taken place at 5.00 a.m. on 8.10.1997. Statement of Surjit Singh PW5 was recorded and FIR Ex.PG came into existence at 9.30 a.m. on 8.10.1997. The distance between Police Station, Dhuri and the place of occurrence is only two kilometers. The special report reached the Ilaqa Magistrate, Dhuri at 11.47 a.m. on the same day. Constable Bhagwan Singh PW9 in his statement has admitted, that on 8.10.1997 the police reached the spot at 7.00 a.m. and the dead body was entrusted to him to be taken to the Civil Hospital. Surjit Singh PW5 has admitted that after examining the injuries on the dead body of the deceased by SI Gurmukh Singh PW11, it is thereafter that his statement was recorded. It is clear that consultations and confabulations had taken place before lodging of the FIR.

We do not find any infirmity in the judgment of the learned trial Court. Appeal of the State is dismissed. Revision filed by the complainant is also dismissed.

(MEHTAB S.GILL)
JUDGE

(BALDEV SINGH)
JUDGE

September 27, 2006
SKA

WHETHER TO BE REFERRED TO REPORTER? YES/NO